

AMENDED IN SENATE APRIL 5, 2006

SENATE BILL

No. 1705

Introduced by Senator Ashburn

February 24, 2006

An act to add Section ~~25216.8~~ 21080.38 to the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1705, as amended, Ashburn. Energy: California Environmental Quality Act: ~~expedited review~~. *negative declaration: energy infrastructure.*

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would authorize a lead agency to adopt a negative declaration or mitigated negative declaration for a proposed project to upgrade, replace, or modify an energy infrastructure, as defined, that: (1) is undertaken along an existing energy corridor, as defined, or utility right-of-way, (2) at a minimum, returns the habitat on the energy corridor or utility right-of-way to preexisting conditions or enhances the habitat environment, and (3) the project proponent posts with, or submits to, the lead agency a bond in an amount sufficient to cover the project costs of performing the habitat restoration. The bill would require the lead agency to verify or certify that the project proponent has completed the habitat restoration as approved in the

proposed project before releasing the bond. By imposing new duties on a local agency regarding a project to upgrade, repair, or modify an energy infrastructure, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law establishes the State Energy Resources Conservation and Development Commission in the Resources Agency. Existing law imposes various duties related to energy on the commission, including requiring the commission to prescribe the form and content of applications for electric transmission lines and thermal powerplants, as specified, and conduct public hearings and take other actions to secure adequate evaluation of applications.~~

~~This bill would require the commission to develop and implement an expedited process for review pursuant to the California Environmental Quality Act, for a project proposal to upgrade, replace, or modify energy infrastructure, as the bill would define that term, that will be undertaken along an existing energy corridor or utility right-of-way and that returns habitat on the corridor or right-of-way to pre-existing conditions or enhances the habitat environment.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 21080.38 is added to the Public*
- 2 *Resources Code, to read:*
- 3 *21080.38. (a) Notwithstanding any other provision of law, a*
- 4 *lead agency may adopt a negative declaration or mitigated*
- 5 *negative declaration for a project to upgrade, replace, or modify*
- 6 *energy infrastructure that meets all of the following*
- 7 *requirements:*
- 8 *(1) The project is undertaken along an existing energy*
- 9 *corridor or utility right-of-way.*

1 (2) *The project, at a minimum, returns habitat on the corridor*
2 *or utility right-of-way to preexisting conditions or enhances the*
3 *habitat environment.*

4 (3) *The project proponent has posted with, or submitted to, the*
5 *lead agency a bond in an amount sufficient to cover the projected*
6 *costs in meeting the requirements of paragraph (2).*

7 (b) *A lead agency shall not release the bond posted or*
8 *submitted pursuant to paragraph (3) of subdivision (a) until it*
9 *has verified or certified that the project proponent has completed*
10 *the habitat restoration as approved in the project proposal.*

11 (c) *For the purposes of this section, “energy infrastructure”*
12 *includes, but is not limited to, petroleum, electric, natural gas, or*
13 *other energy related infrastructure.*

14 (d) *For the purposes of this section, “energy corridor” means*
15 *a private, utility, or public right-of-way, that contains an energy*
16 *infrastructure.*

17 SEC. 2. *No reimbursement is required by this act pursuant to*
18 *Section 6 of Article XIII B of the California Constitution because*
19 *a local agency or school district has the authority to levy service*
20 *charges, fees, or assessments sufficient to pay for the program or*
21 *level of service mandated by this act, within the meaning of*
22 *Section 17556 of the Government Code.*

23 ~~SECTION 1. Section 25216.8 is added to the Public~~
24 ~~Resources Code, to read:~~

25 ~~25216.8. (a) The commission shall develop and implement~~
26 ~~an expedited process for review pursuant to Division 13~~
27 ~~(commencing with Section 21000), for a project proposal to~~
28 ~~upgrade, replace, or modify energy infrastructure that meets both~~
29 ~~of the following requirements:~~

30 ~~(1) The project will be undertaken along an existing energy~~
31 ~~corridor or utility right-of-way.~~

32 ~~(2) The project, at a minimum, returns habitat on the corridor~~
33 ~~or right-of-way to pre-existing conditions or enhances the habitat~~
34 ~~environment.~~

35 ~~(b) For purposes of this section, “energy infrastructure”~~
36 ~~includes, but is not limited to, petroleum, electric, natural gas, or~~
37 ~~other energy-related infrastructure as determined by the~~
38 ~~commission.~~